

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

MARK AND SHERI VOLNER

(b) County of Residence of First Listed Plaintiff ROWAN, NC  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Freiwald Law, P.C.  
1500 Walnut Street, 18<sup>th</sup> Floor, Phila. PA 19102

## DEFENDANTS

THE BOSTON BEER COMPANY and SAMUEL ADAMS PENNSYLVANIA BREWERY COMPANY

County of Residence of First Listed Defendant SUFFOLK COUNTY, MA  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |  |   |  |
|---|--|---|--|
| Citizen of This State                   | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1    | Incorporated or Principal Place of Business In This State     | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4    |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 US Code § 1332

Brief description of cause:

Plaintiff was injured while working at Defendants' facility.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ \$4.5 million

CHECK YES only if demanded in complaint.

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 4/14/16 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. **Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 350 SUNFISH TERRACE, SALISBURY, NC 28146

Address of Defendant: ONE DESIGN CENTER PLACE, SUITE 850, BOSTON, MA 18031

Place of Accident, Incident or Transaction: 7880 PENN DRIVE, BREINIGSVILLE, PA 18031

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify) \_\_\_\_\_

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) Premium Liability

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Glen Ellis, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 4/14/16

[Signature]  
Attorney-at-Law

93777

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/14/16

[Signature]  
Attorney-at-Law

93777

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

MARK AND SHERI VOLNER

CIVIL ACTION

v.

THE BOSTON BEER COMPANY and SAMUEL  
ADAMS PENNSYLVANIA BREWERY COMPANY

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>4/14/16</u> <b>Date</b>	<u>GLENN A. ELLIS, ESQUIRE</u> <b>Attorney-at-law</b>	<u>PLAINTIFF</u> <b>Attorney for</b>
<u>(215) 875-8000</u> <b>Telephone</b>	<u>(215) 875-8575</u> <b>FAX Number</b>	<u>GAE@FREIWALDLAW.COM</u> <b>E-Mail Address</b>



**Civil Justice Expense and Delay Reduction Plan  
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS  
(See §1.02 (e) Management Track Definitions of the  
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARK AND SHERI VOLNER  
350 Sunfish Terrace  
Salisbury, North Carolina, 28146  
Plaintiffs

v.

THE BOSTON BEER COMPANY  
One Design Center Place, Suite 850  
Boston, Massachusetts, 02210  
Defendant  
and

SAMUEL ADAMS PENNSYLVANIA  
BREWERY COMPANY  
7880 Penn Drive  
Breinigsville, Pennsylvania, 18031  
Defendant

CIVIL ACTION

Case No.

**COMPLAINT**

Plaintiff, Mark Volner and his wife Sheri Volner by and through his attorneys, Freiwald Law, P.C., allege the following in support of this Complaint:

**I. PARTIES**

1. Plaintiff Mark Volner was born on June 29, 1961 and is an adult citizen and resident of Salisbury, North Carolina. He resides with his wife Sheri Volner at 350 Sunfish Terrace, Salisbury, North Carolina, 28146.

2. Since 1986, Plaintiff Mark Volner has worked as a pipe welder/fitter in the food services industry.

3. Plaintiff Mark Volner is a FDA and USDA certified 3A Food Grade Sanitary Pipe Welder/Fitter.

4. Plaintiff Mark Volner was hired on or about June 28, 2015 by Industrial Service and Installation, Inc. (ISI), headquartered in Emigsville, Pennsylvania, to work as a pipe welder/fitter at the Samuel Adams brewery located at 7880 Penn Drive, Breinigsville, Pennsylvania, 18031.

5. The Samuel Adams brewery in Breinigsville, Pennsylvania is owned by Defendant The Boston Beer Company (“the Company”), which is headquartered at One Design Center Place, Suite 850, Boston, Massachusetts, 02210.

6. The Company purchased its Breinigsville, Pennsylvania brewery in June 2008.

7. The Pennsylvania brewery is the Company’s largest brewery, which produces most of the Company’s shipment volume.

8. The Company owns approximately 76 acres of land in Breinigsville, Pennsylvania, consisting of the two parcels on which the Company’s Pennsylvania brewery is located. The buildings on this property consist of approximately 1 million square feet of brewery and warehouse space.

9. The Samuel Adams brewery in Breinigsville, Pennsylvania is operated by the Defendant Samuel Adams Pennsylvania Brewery Company, LLC, which is wholly owned by Defendant The Boston Beer Company.

## **II. JURISDICTION**

10. This Court has jurisdiction over this matter since there is complete diversity among the parties and the amount in question is greater than \$75,000.00.

### **III. FACTS**

11. Beginning in the second half of 2013, the Company had product shortages and service issues. The Company's supply chain struggled under the increased volume and experienced increased operational and freight costs as it attempted to react to the shortages.

12. In 2013 and 2014, the Company took steps to significantly increase its packaging capabilities and tank capacity at its Pennsylvania brewery to address these challenges.

13. As part of increasing its packaging capabilities and tank capacity, the Company hired ISI.

14. Plaintiff Mark Volner began working at Defendants' Pennsylvania brewery in August of 2015, which required a temporary relocation to the Breinigsville area.

15. It should be noted that Plaintiff Mark Volner had previously worked at the Pennsylvania brewery in 2014 for a company called Sanitary Process Systems, Inc., which is located in Lititz, Pennsylvania.

16. When Plaintiff Mark Volner returned with ISI, he was tasked with helping to install a new yeast distribution system connected to the existing fermentation system.

17. The new yeast distribution system was being installed next to the existing sugar system, which supplies liquid sugar to different areas of the brewery.

18. Installing a new yeast distribution system involved installing new stainless steel piping, pumps, and control modules which were connected to and controlled yeast distribution to the fermentation tanks.

19. Despite the fact that the Plaintiff and his fellow workers were attempting to install the new yeast distribution system, Defendants continued their normal brewery operations in the area where Plaintiff was working.



20. Despite the fact that Plaintiff and his fellow workers were attempting to install the new yeast distribution system, Defendants continued to use the sugar system.

21. In order to continue to use the sugar system, Defendants cut a hole in the wall and dragged a 4 inch hose through the wall and hooked it up to a large liquid sugar pump to draw the sugar into the system.

22. Despite the fact that Plaintiff and his fellow workers were attempting to install the new yeast distribution system, Defendants failed to put up any barriers to keep the sugar from entering into Plaintiff's work area.

23. Despite the fact that Plaintiff and his fellow workers were attempting to install the new yeast distribution system, Defendants allowed and caused Plaintiff's work area to be contaminated and coated with liquid sugar.

24. On September 28, 2015, Plaintiff Mark Volner was asked by one of the Company engineers to "tear a pump loose", in other words, to remove a pump that had already been positioned and installed.

25. Normally, the Plaintiff would get down on his knees to remove the pump but because the floor was so sticky and covered in sugar he had to bend over to pull the pump out.

25. As he attempted to pull the pump out, he lost his footing due to the sugar coating the floor. He dropped the pump and reached out to prevent himself from falling. As he did that, he felt his back twist out of place.

26. Instantly, he felt intense and excruciating pain in his right mid-lower back area.

27. Plaintiff immediately notified his supervisor and went back to work with progressively worsening pain.

28. The Plaintiff returned to the work site but was unable to return to work the next day, so he collected his tools and returned to North Carolina.

29. On October 5, 2015, Plaintiff presented to his family doctor, Timothy Dagenhart, M.D., complaining of 9 out of 10 back pain, numbness, and paresthesia. Dr. Dagenhart's impression was probable acute central herniated disc L2 through L4 with a degree of impingement and radiculopathy.

30. Since the Plaintiff's injury occurred at work, he was asked by ISI to go to FASTMED Urgent care in Salisbury, North Carolina.

31. Plaintiff was seen at FASTMED on October 19, 2015. According to the doctor at FASTMED, Plaintiff was suffering from severe low back pain with neuropathy and lower leg weakness requiring the need for an urgent referral to a neurosurgeon.

32. The doctor at FASTMED instructed the Plaintiff that he was to "Avoid kneeling entirely. Avoid squatting entirely. Avoid bending over entirely. Avoid twisting entirely. Avoid jumping entirely. Avoid running entirely. Avoid climbing ladders entirely. Avoid prolonged sitting. Avoid prolonged standing. No lifting . . . greater than 0 lbs. Notes: NO LIFTING WHATSOEVER."

33. On November 3, 2015, Plaintiff was seen at Greensboro Orthopedics for lumbar and cervical pain. The Plaintiff's symptoms included mid-lower stabbing back pain (7-8 out of 10), decreased range of motion, paresthesia, numbness, and stiffness. It was noted that Plaintiff's pain radiated down bilaterally to his hips and lower extremities.

34. In addition, it was noted that Plaintiff suffered from pain in his neck at the base of his skull leading to migraine type headaches and popping in his neck with motion and tingling in his fingers of both hands.

35. As a result of his injury, Plaintiff ambulates with a slow, antalgic, unstable gait, which requires the use of a cane.

36. Subsequent MRIs and examination of the Plaintiff's back showed lumbar disc herniation with stenosis, multi-level changes and lower extremity neuropathy with weakness.

37. As a result of the above injury, Plaintiff has had extensive medical treatment and will need more medical treatment, including likely surgery.

38. As a result of the above injury, Plaintiff has suffered a loss of earnings and earning capacity.

39. As a direct and proximate result of the negligence of Defendants, Plaintiff is disabled and will be unable to perform in his chosen occupation.

40. The injuries described in this Complaint were caused solely and exclusively by Defendants and/or Defendants' agents, servants, and/or employees and were in no manner whatsoever caused or contributed to by any act or omission on the part of Plaintiff.

41. The actions and/or inactions of Defendants increased the risk of harm to Plaintiff.

42. As a direct result of the actions or inactions of the Defendants, their agents, servants, and employees, Plaintiff suffered a lower back injury which has caused severe, permanent, and disabling damage, all of which has caused him and will in the future cause him great pain, suffering, and economic loss.

43. As a direct and legal consequence of the negligence and other liability of Defendants, Plaintiff Mark Volner suffered the following injuries, including but not limited to:

- (a) lower back injury;
- (b) lower back pain;
- (c) pain radiated down to bilateral hips and lower extremities;

- (d) lumbar disc herniation;
- (e) lower extremity neuropathy;
- (f) permanent neurologic injury;
- (g) decreased range of motion;
- (h) paresthesia;
- (i) numbness/stiffness;
- (j) migraines;
- (k) depression and mental anguish;
- (l) embarrassment/humiliation;
- (m) scarring/disfigurement;
- (n) humiliation;
- (o) loss of life's pleasures;
- (p) loss of past earnings;
- (q) loss of future earning capacity;
- (r) psychological damage;
- (s) other injuries as documented in the medical records; and
- (t) incidental and other expenses.

44. As a direct and legal consequence of the negligence and other liability of Defendants, Plaintiff Sheri Volner has lost the services and comfort of her husband Mark Volner.

WHEREFORE, Plaintiff demands judgment in excess of \$150,000.00 for damages upon this count of the Complaint against Defendants, jointly and/or severally, together with costs of suit, interest and attorneys' fees.

**COUNT I - NEGLIGENCE**  
**Mark & Sheri Volner v. Defendants**

45. The previous paragraphs are incorporated here as if fully set forth at length.

46. The Plaintiff's lower back injury was a direct and proximate result of the negligence of Defendants, the owners of the premises for the following reasons:

- a) Defendants continued on with their normal brewery operations in the area where the Plaintiff was working;
- b) Defendants continued to bringing in liquid sugar through the area, where the Plaintiff was working, to be used in the sugar system;
- c) Defendants failed to put up any barriers to keep the sugar from entering into the Plaintiff's work area;
- d) Defendants allowed and caused the Plaintiff's work area to be covered and coated with liquid sugar;
- e) Defendants failed to select personnel who were capable and qualified to operate the brewery sugar system in a good, workmanlike, and safe manner; and
- f) Defendants were negligent in approving and accepting designs, plans and specifications for the installation of the yeast system in a dangerous and unsafe location.



WHEREFORE, Plaintiff demands judgment in excess of \$150,000.00 for damages upon this count of the Complaint against Defendants jointly and/or severally, together with costs of suit, interest and attorneys' fees.

**FREIWALD LAW, P.C.**

By:

  
A horizontal line is drawn across the signature.

AARON J. FREIWALD, ESQUIRE  
GLENN A. ELLIS, ESQUIRE  
Counsel for Plaintiff

Date:

4/14/16